

October 20, 2005

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**TO: SEXUAL AND OTHER CRIMINAL OFFENSES,
CRIMINAL PENALTIES, AND SENTENCING
PRACTICES STUDY COMMITTEE**

**FROM: JOE McENIRY, SENIOR LEGAL COUNSEL,
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RE: BACKGROUND STATEMENT

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I. INTRODUCTION.

The charge of the Committee is to review sexual abuse-related criminal offenses and the Sex Offender Registry; review Iowa's criminal Code and make recommendations for the Code's reorganization, updating, and revision; review current penalties and sentencing practices, including current mandatory minimum sentences, limitations on parole, and sentence enhancements; conduct a comparative assessment of relative penalties based on the threat imposed by the prohibited conduct and the risk associated with particular criminal offenders; and make recommendations and findings.

II. ATTACHMENTS.

- A. Summary of House File 619.
- B. Summary of Florida's New Sex Offender Law.
- C. Summary of the Sex Offender Registry in Iowa.
- D. Copy of Iowa Code section 692A.2A — Residency Restrictions — Child Care Facilities and Schools.
- E. Copy of Alabama's residency restrictions for sex offenders.
- F. Copy Illinois' residency restrictions for sex offenders.
- G. Copy of Florida's residency restrictions for sex offenders.
- H. Copy of Washington's residency restrictions for sex offenders.

III. SEX OFFENDER BILL PASSED DURING THE 2005 LEGISLATIVE SESSION (HF 619).

A comprehensive sex offender bill was enacted during the 2005 Legislative Session. The Act requires DNA profiling for all persons convicted of a felony, including a person who has received a deferred judgment. The Act made numerous changes to the Sex Offender Registry and enhanced criminal penalties and lengthened the statute of limitations for certain sexual abuse-related crimes. Victims of sexual abuse were also given added protections under the Act.

See attachment A for a complete summary of House File 619.

See attachment B for an executive summary of Florida's Sex Offender Law passed this year.

IV. SEX OFFENDER REGISTRY.

The Sex Offender Registry was created in 1995. The registry law was substantially amended during the 2005 Legislative Session. Any person convicted of a criminal offense against a minor, an aggravated offense, a sexually violent offense, or any other relevant offense in Iowa, or in any other state, or in any federal, military, tribal, or foreign court, shall register as a sex offender. Sex offenders for the first time are now being removed from the registry because their 10-year registry period has ended. During July of 2005, 641 sex offenders were removed from the registry because the offenders had successfully completed their 10-year registry period. As of August 1, 2005, there were 6,004 people on the Sex Offender Registry.

See attachment C for a more detailed summary of the Sex Offender Registry.

V. RESIDENCY RESTRICTION — SEX OFFENDERS.

In 2002, the General Assembly enacted a law prohibiting a sex offender from residing within 2,000 feet of a school or licensed day care. A sex offender who resides within 2,000 feet of a school or child care facility commits an aggravated misdemeanor. The residency restriction does not apply to a sex offender who has an established residence prior to July 1, 2002, or a child care facility or school newly located within 2,000 feet of the sex offender's residence; a sex offender who is required to serve a sentence; a sex offender subject to an order of commitment as a sexually violent predator; or a sex offender who is a minor or a ward under a guardianship.

See attachment D for a copy of Iowa's residency restriction law for sex offenders.

See attachments E (Alabama), F (Illinois), G (Florida), and H (Washington) for a copy of other states' residency restrictions for sex offenders.

SUMMARY OF HOUSE FILE 619

BY COMMITTEE ON HUMAN RESOURCES. This Act relates to DNA testing of certain criminal offenders, the Sex Offender Registry, criminal sentencing, and victim notification. The Act is divided into divisions as follows:

Division I - DNA Profiling

Division I requires submission of a DNA sample for DNA profiling if a person is convicted of or receives a deferred judgment for a felony offense, is civilly committed as a sexually violent predator, is a juvenile who has been adjudicated delinquent of a criminal offense, or is a person found not guilty by reason of insanity of a criminal offense requiring a DNA sample. Current law provides that only a person convicted of a criminal offense listed in Code Section 13.10 is required to provide a DNA sample for DNA profiling.

The division establishes, in the Division of Criminal Investigation and Bureau of Identification (DCI), a state DNA database for storage of DNA profiles and records and a state DNA data bank for storage of DNA samples. The division defines "DNA sample" to mean a biological sample provided by any person required to submit a DNA sample or a biological sample submitted for any other permissible purpose. "DNA profile" is defined to mean the objective form of the results of the DNA analysis performed on the DNA sample.

A supervising agency with custody, control or jurisdiction over a person required to submit a DNA sample shall collect the sample. Any person required to submit a DNA sample who refuses to provide a sample is subject to contempt proceedings. Any person collecting the DNA sample is immune from civil or criminal liability if the person collects the sample in a reasonable manner according to generally accepted medical practices or with the procedures set out in administrative rules.

The DCI may contract with a private entity to conduct DNA profiling.

A person who knowingly or intentionally discloses, uses or obtains a DNA sample without authorization commits an aggravated misdemeanor. A person commits a class "D" felony if the person knowingly or intentionally alters a DNA sample or sample collection container, or falsifies the source of a DNA sample.

A DNA record is a confidential record and may only be disclosed as provided in the division. A DNA record may be disclosed to a criminal and juvenile justice agency, the federal government for a national database, and any other agency using the confidential record in its official capacity and for criminal defense purposes.

If a person who is required to submit a DNA sample has the person's conviction, adjudication, or civil commitment subsequently reversed on appeal, the person may file a written request with the DCI requesting that all DNA records be expunged. The division also permits a relative of a missing person who voluntarily submitted a DNA sample or a person who submitted a sample for forensic work to request that their DNA sample be expunged. Upon receipt of a certified copy of the order reversing the conviction, adjudication, or civil commitment, and a certified copy of the order dismissing the case, the DNA records shall be expunged unless the destruction of the records would destroy DNA evidence related to another person. If the request to expunge a person's DNA record is denied, the DCI is required to notify the person in writing.

The division also requires a person convicted, adjudicated as delinquent, civilly committed as a sexually violent predator, or found not guilty by reason of insanity, prior to June 14, 2005, who otherwise would be required to submit a DNA sample under the division, and who is under the custody, control or jurisdiction of a supervising agency, to submit a DNA sample prior to being released from the supervising agency's custody, control or jurisdiction.

The division modifies the statute of limitations for prosecution of sexual abuse in the first, second or third degree by allowing a case to be brought against a person within three years from the date the person is identified by the person's DNA profile.

A person who has been convicted of a felony and who has not been required to submit a DNA sample for DNA profiling may make a motion to the court to require DNA profiling on a DNA sample. The court shall grant the person's motion if all of the following apply: the evidence subject to DNA profiling is available and in a condition to be tested; a sufficient chain of custody has been established; the identity of the perpetrator was a significant issue or should have been a significant issue in the underlying criminal offense; the evidence subject to DNA profiling is material to the underlying criminal case; and a DNA profile obtained from the evidence would raise a reasonable probability that the person would not have been convicted if DNA

profiling existed at the time of the conviction or if DNA profiling had been conducted.

This division of the Act takes effect June 14, 2005.

Division II - Sex Offender Registry and Interim Study

Division II makes changes to the Sex Offender Registry and provides other Code changes related to sex offenders.

A person who is the parent or guardian of a child or minor commits child endangerment in violation of Code Section 726.6 if the person cohabits with another person with the knowledge the other person is required to register as a sex offender or is on the Sex Offender Registry. Child endangerment for residing with a sex offender is punishable as an aggravated misdemeanor. A person does not commit child endangerment if the parent or guardian has custody of a child or minor who is required to register as a sex offender, or the person is married to and living with a person required to register.

The division also defines "child abuse" to include cohabitation with a person on the Sex Offender Registry. By definition any purported child abuse requires mandatory reporters to report instances of such child abuse pursuant to Code Section 232.69.

If a person required to register as a sex offender is required to serve lifetime parole or any other type of special sentence, the person shall be required to remain on the Sex Offender Registry equal to the term of the special sentence. Current law requires a person to register as a sex offender for 10 years in most instances.

Also, if a person required to register as a sex offender violates any registry requirements under Code Section 692A.4, the person shall register for an additional 10 years beginning from the date the first registration period ends.

The division requires a registered sex offender to at least annually update their photograph with the county sheriff for posting on the Sex Offender Registry's website.

A person required to register as a sex offender who is placed on probation, parole, work release, special sentence, or any other type of conditional release, and who committed a criminal offense involving a minor, shall be supervised by an electronic tracking and monitoring system for a period of at least five years in addition to any other conditions of release.

The division prohibits a county sheriff or police department from charging a fee for requests of Sex Offender Registry information.

If a person required to register as a sex offender moves, the county sheriff of the county of the person's new residence shall provide relevant registry information to the administrative office of the school district in which the person resides, and shall also provide relevant registry information to any private school near the person's new residence.

The division requires an assessment of risk to reoffend to be performed by the department or agency with jurisdiction over any person newly required to register as a sex offender on or after July 1, 2005. The results of the assessment of risk shall also be disclosed on the Sex Offender Registry's website.

The division prohibits an inmate at a correctional institution from receiving earned time if the inmate fails to participate in and complete a sex offender treatment program established by the Director of the Department of Corrections.

The Legislative Council is requested to establish a Sex Offender Interim Study Committee to identify possible changes to criminal offenses involving sexual abuse and the Sex Offender Registry.

Division III - Enhanced Criminal Penalties and Statute of Limitations

Division III enhances criminal penalties and changes the statute of limitations for sexual abuse in the first, second or third degree.

The division increases the penalty for certain lascivious acts with a child from a class "D" felony to a class "C" felony, and makes the offense applicable to any person 16 years of age or older who performs a lascivious act with a child. Previously, lascivious acts with a child only applied to any person 18 years of age or older who performed lascivious acts with a child.

The division modifies the statute of limitations for sexual abuse in the first, second or third degree by allowing a case to be brought against a person within three years from the date the identity of the person is identified by the person's DNA profile. Current law requires that such cases must be prosecuted within 10 years of the commission of the crime or within 10 years of the victim attaining the age of 18.

The division makes it a class "A" felony to commit a second or subsequent offense involving any combination of the following

offenses: sexual abuse in the second degree; sexual abuse in the third degree; or lascivious acts with a child.

The division creates a special sentence for any person convicted of a class "C" felony or greater offense under Code Chapter 709, or a class "C" felony under Code Section 728.12. A person sentenced to a special sentence for a class "C" felony or greater offense shall be committed to the custody of the director for the rest of the person's life, and shall begin the special sentence under supervision as if on parole after completing the sentence imposed for the underlying criminal offense.

The division also creates a special sentence for any person convicted of a misdemeanor or a class "D" felony under Code Chapter 709, Code Section 726.2, or Code Section 728.12. A person sentenced to a special sentence for a misdemeanor or class "D" felony shall be committed to the custody of the director for a period of 10 years, and shall begin the special sentence under supervision as if on parole after completing the sentence imposed for the underlying criminal offense.

If a person violates the terms and conditions of their special sentence, the person's release may be revoked. Upon the revocation of release, the revocation period shall be for a period not to exceed two years in a correctional institution upon the first revocation and for a period not to exceed five years in a correctional institution upon a second or subsequent revocation.

A person serving a special sentence may be discharged early from the sentence by the Board of Parole in the same manner as a person on parole.

Division IV - Victim Rights

Division IV enhances victims' rights.

The division requires background checks for persons seeking employment at domestic abuse and sexual assault centers.

A police officer investigating a sexual assault shall provide immediate and adequate notice to victims of their rights. The rights include but are not limited to the following: the right to have an officer stay at the victim's residence if requested to do so or assist the victim in leaving the residence; the right to medical treatment; the right to seek a no-contact order; the right to register as a victim; the right to a sexual assault examination at state expense; the right to seek

restitution; and the right to contact the county attorney or local law enforcement agency to determine the status of the victim's case.

The division permits an automated victim notification system to be utilized to assist public officials in keeping crime victims, the victim's family, or other interested persons informed. If an automated victim notification system is available, a county sheriff or police department shall provide the telephone number and website address to each victim to allow the victim to register with the system.

Division V - Task Force

Division V creates a task force within the Division of Criminal and Juvenile Justice Planning to study and make periodic recommendations for treating and supervising sex offenders in correctional institutions and in the community. The task force shall file a report with recommendations with the General Assembly by January 15, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1877 CS PCB CRJU 05-08 Sexual predators and sexual offenders
SPONSOR(S): Criminal Justice Committee; Kravitz, Dean, & Rice
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Criminal Justice Committee	7 Y, 0 N	Kramer	Kramer
1) Justice Appropriations Committee	11 Y, 0 N, w/CS	Sneed	DeBeaugrine
2) Justice Council	10 Y, 0 N, w/CS	Kramer	De La Paz
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1877, with committee substitute, requires electronic monitoring by the Department of Corrections for offenders on supervision who have committed a specified sexual offense or have been designated as a sexual predator. The bill specifies the type of electronic monitoring which must be used.

The bill also requires lifetime electronic monitoring of offenders who meet certain criteria.

This bill creates a new aggravating circumstance to be considered by the sentencing jury and judge in a capital case. The bill adds to the list of aggravating circumstances that the capital felony was committed by a person designated a sexual predator or a person previously designated a sexual predator who had the sexual predator designation removed.

Generally, a sexual predator is required to maintain registration for the duration of his or her life. Under certain circumstances, a sexual predator who has been released from confinement or supervision for at least 20 years may petition the circuit court for removal of the sexual predator designation. This bill applies a 30 year waiting period for a person who was designated a sexual predator by a court on or after October 1, 2005. The bill also removes the current requirement that in order to qualify for sexual predator designation, a prior sexual offense must have been sentenced separately from the most recent offense. Further, the bill removes language disqualifying a prior felony if it was committed more than 10 years before the primary offense.

This bill creates a third degree felony for any person who permits a sexual predator or sexual offender to reside with that person knowing that the sexual predator or sexual offender has failed to comply with the reporting requirements.

The bill will require the Criminal Justice Estimating Conference to develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release.

The department estimates the cost for FY 2005-06 to be \$2.5 million. The cost increases to \$6.9 million in the second year and to \$13.4 million in the third year. See Section II. FISCAL ANALYSIS AND ECONOMIC IMPACT STATEMENT for further detail.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill will likely increase the number of offenders eligible for sexual predator designation and will require electronic monitoring of certain offenders.

Promote personal responsibility: The bill will require electronic monitoring of certain offenders.

B. EFFECT OF PROPOSED CHANGES:

Sexual Predator Registration: Section 775.21, F.S., provides that a person convicted of an enumerated sexual offense must be designated a "sexual predator." Specifically, a person must be designated a sexual predator if he or she has been convicted of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of one of the following offenses:
 - a. kidnapping or false imprisonment¹ where the victim is a minor and the defendant is not the victim's parent;
 - b. sexual battery;²
 - c. lewd or lascivious offenses;³
 - d. selling or buying a minors for child pornography;⁴ or
 - e. a violation of a similar law of another jurisdiction;
2. Any felony violation of one of the following offenses where the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication one of the following offenses:
 - a. kidnapping, false imprisonment or luring or enticing a child⁵ where the victim is a minor and the defendant is not the victim's parent,
 - b. sexual battery;⁶
 - c. procuring a person under the age of 18 for prostitution⁷
 - d. lewd or lascivious offenses;
 - e. lewd or lascivious battery on an elderly person;⁸
 - f. promoting sexual performance by a child;⁹
 - g. selling or buying a minors for child pornography; or
 - h. a violation of a similar law of another jurisdiction;¹⁰

In order to be counted as a prior felony, the felony must have resulted in a conviction sentenced separately or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony. If the prior felony was committed more than 10 years before the primary offense, it is not considered a prior felony under this provision if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement,

¹ s. 787.01, F.S. or s. 787.02, F.S.,

² See chapter 794, F.S.

³ s. 800.04, F.S.

⁴ s. 847.0145, F.S.

⁵ s. 787.025, F.S.

⁶ Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.

⁷ s. 796.03, F.S.

⁸ s. 825.1025(2)(b), F.S.

⁹ s. 827.071, F.S.

¹⁰ Additionally, a person must be designated as a sexual predator if he or she committed one of the offenses listed in a. through h. above and has previously been convicted of the offense of selling or showing obscenity to a minor or using a computer to solicit sexual conduct of or with a minor [ss. 847.0133 or 847.0135, F.S.]

supervision or sanction, whichever is later. This bill removes the language requiring that the prior felony has to have been sentenced separately from the most recent offense. Further, the bill removes language disqualifying a prior felony if it was committed more than 10 years before the primary offense.

If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections (DOC), or is in the custody of a private correctional facility, the predator must register with the DOC and provide specified information. Private correctional facilities are also governed by these requirements.

If the sexual predator is not in the custody or control of, or under the supervision of, the DOC, or is not in the custody of a private correctional facility, and the predator establishes or maintains a residence in this state, the predator must initially register in person at an FDLE office, or at the sheriff's office in the county of residence within 48 hours after establishing permanent or temporary residence.

Within 48 hours of initial registration, a sexual predator who is not incarcerated and who resides in the community, including a predator under DOC supervision, must register at a driver's license office of the DHSMV and present proof of registration, provide specified information, and secure a driver's license, if qualified, or an identification card. Each time a sexual predator's driver's license or identification card is subject to renewal, and within 48 hours after any change in the predator's residence or name, he or she must report in person to a driver's license facility of the DHSMV and is subject to specified registration requirements.

Registration procedures are also provided for sexual predators who are under federal supervision, in the custody of a local jail, designated as a sexual predator (or another sexual offender designation) in another state and establish or maintain a residence in this state, or are enrolled, employed, or carrying on a vocation at an institution of higher education in this state.

Extensive procedures are provided for notifying communities about certain information relating to sexual predators, much of which is compiled during the registration process. The law directs how information collected by the DOC, the DHSMV, and others, is to be provided to FDLE. Extensive procedures are also provided for verification of sexual predator's addresses. See ss. 775.21, 943.043, 943.0435, 944.606, and 944.607, F.S.

A sexual predator's failure to comply with registration requirements is a third degree felony. s. 775.21, F.S. A sexual predator who has been convicted of one a list of enumerated offenses when the victim of the offense was a minor is prohibited from working or volunteering at any business, school, day care center, park, playground, or other place where children regularly congregate. A violation of this provision is a third degree felony.¹¹ The bill ranks several offenses relating to failure to comply with sexual predator requirements. Specifically, the offense of failure to register as a sexual predator is currently ranked within level 6. The bill ranks this offense in level 7. The bill ranks the offense of a sexual predator working where children regularly congregate in level 7.

A sexual predator is required to maintain registration for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding. A sexual predator who was designated as a sexual predator by a court before October 1, 1998 and who has been released from confinement or supervision for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court in the circuit where the sexual predator resides for removal of the sexual predator designation. For a person who was designated a sexual predator on or after October 1, 1998, a 20 year waiting period applies. This bill applies a 30 year waiting period for a person who was designated a sexual predator by a court on or after October 1, 2005.

¹¹ S. 775.21(10)(b), F.S.

Sexual offender: According to s. 943.0435, F.S., a “sexual offender” is a person who has been convicted of a specified sexual offense and who has been released on or after October 1, 1997 from the sanction imposed for any conviction of a specified offense. A sexual offender is required to report and register in a manner similar to the registration of a sexual predator under s. 775.21, F.S. There are also somewhat similar registration requirements for sexual offenders under the custody or control of the DOC, or under its supervision, or in custody of a private correctional facility. s. 944.607, F.S. Failure of a sexual offender (under s. 943.0435, F.S., or s. 944.607, F.S.) to comply with the registration requirements is a third degree felony. The bill ranks these offenses in level 7 of the offense severity ranking chart.

Harboring a sexual predator or sexual offender: The bill creates a third degree felony for any person who permits a sexual predator or sexual offender to reside with that person knowing that the sexual predator or sexual offender has failed to comply with the reporting requirements.

Electronic monitoring: The Department of Corrections uses three different types of electronic monitoring of offenders on supervision. The primary differentiation between electronic monitoring approaches is whether it uses radio frequency technology or GPS technology. GPS-based electronic monitoring is further divided into active GPS monitoring and passive GPS monitoring. All varieties of electronic monitoring require the offender to wear an electronic device on his or her body.¹²

Radio frequency monitoring essentially provides a curfew check to verify whether an offender is within an area to which he or she has been restricted. Most commonly, RF monitoring is used to determine whether an offender on house arrest is in the home. The offender must wear a small transmitter, which can weigh as little as an ounce, that transmits a radio signal to a small receiving unit. The broadcast range of the transmitter is typically about 150 feet, but many systems allow the range to be adjusted depending upon individual circumstances. The receiving unit is linked to a telephone line. If the receiving unit does not receive the radio signal from the transmitter, it causes a telephone alert to be sent to the monitoring station. In turn, the monitoring station notifies the probation officer that the signal has been lost and the offender may have left the restricted area.

RF monitoring systems can be programmed to account for periods when the offender is permitted to be away from the restricted area, such as to go to work or to attend religious services. However, RF monitoring does not provide any information about the offender’s location when the offender moves outside the range at which the receiver can detect the radio transmission.

The cost for this form of RF monitoring is approximately \$2.75 per day, the least expensive of all forms of electronic monitoring.

Passive GPS monitoring systems require the monitored offender to wear a small radio transmitter on his or her body and to wear or carry a device that includes a radio receiver, a GPS receiver, and a storage unit. The transmitter and receiver combination ensures that the offender remains close to the GPS receiver. As is the case with RF monitoring systems, the transmitter is attached to the offender with a bracelet that has some type of tamper-resistant and/or tamper-alert technology.

Unlike RF monitoring, a passive GPS system is not restricted in range to a base location. It detects the offender’s movements as he or she moves about. The device can record that the offender left an area and can pinpoint the offender’s location during the day. Because the defendant’s location can be accurately determined, the system parameters can be set to determine that the offender entered an area from which he or she is legally excluded, such as when a sex offender goes within 1000 feet of a school. The system is referred to as passive because it records the information for later examination by the probation officer. At the end of a specified interval, normally daily, the offender must download the information from the GPS receiver to another device. Depending on the sophistication of the system,

¹² Information regarding DOC’s use of electronic monitoring was obtained from a interim report of the Senate Criminal Justice Committee (2005-126) released in November 2004 entitled, Global Positioning System (GPS) Technology Use in Monitoring the Activities of Probationers.

the information can either be sent to the monitoring station by telephone or stored for future retrieval. When the data is compared against a set of known locations, such as a map with GPS coordinates, an analyst can determine where the offender was at any particular time.

Passive GPS monitoring is relatively inexpensive at approximately \$4 per day.

Active GPS monitoring uses the same basic technology as passive GPS monitoring, but provides near real-time reporting of the offender's location. Active GPS monitoring incorporates a cell phone into the equipment in order to transmit the offender's location coordinates to a monitoring station. The system is designed to provide an alert to the probation officer when the offender either leaves an area to which he or she is restricted or enters an area from which he or she is barred. Because of the additional expense for cell phone service and 24-hour monitoring, active GPS monitoring systems cost approximately \$9 per day.

For either type of GPS monitoring system, the department or its contractor maintains an archive of the GPS data points (locations) of offenders on either type of GPS monitoring. Therefore, a law enforcement agency can request a search of the database to determine whether a monitored offender was in the area when a crime was committed.

According to statistics from the Department of Corrections, in January 2005, the following number of offenders on supervision were electronically monitored¹³:

	Sex Offenders	Other	Total
Radio Frequency	27	158	185
Passive GPS	13	10	23
Active GPS	224	275	499
Total	264	443	707

Conditional release program: Section 947.1405, F.S., creates the conditional release program. This program requires an inmate convicted of repeated violent offenses that is nearing the end of his or her sentence to be released under close supervision.¹⁴ The Parole Commission sets the length and conditions of release after reviewing information provided by the Department of Corrections. The Department of Corrections supervises the offender while on conditional release. There is a list of required conditions of release set forth in the section. For a releasee whose sexual offense was committed on or after October 1, 1997, the commission is statutorily authorized to order electronic monitoring.¹⁵

This bill requires that the commission order electronic monitoring for a releasee whose crime was committed on or after July 1, 2005 where the releasee committed a specified sexual offense¹⁶ or was designated a sexual predator. The bill also creates s. 947.1406, F.S., to provide that for any conditional releasee placed on electronic monitoring pursuant to the newly created provision, the department must use a system of active electronic monitoring that identifies the location of a monitored offender and that can produce upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or the offender's departure from a specified geographic location.

¹³ <http://www.dc.state.fl.us/pub/spop/0501/tab02.html>

¹⁴ Inmates who qualify for conditional release include: 1) those who have previously served time in a correctional institution and are currently incarcerated for one a list of violent offenses including murder, sexual battery, robbery, assault or battery; 2) inmates sentenced as a habitual offender, a violent habitual offender or a violent career criminal; 3) inmates who were found to be a sexual predator. s. 947.1405(2), F.S.

¹⁵ s. 947.1405(7)(b)5, F.S.

¹⁶ s. 794.05, s. 800.04, s. 827.071, or s. 847.0145

The bill also provides that for a releasee placed on electronic monitoring that the commission determines is in violation of any material condition of supervision, the commission must order the releasee returned to prison until the expiration of the sentence of imprisonment.

Probation and community control: The Department of Correction oversees several types of supervision, including probation and community control. Section 948.30, F.S., requires that a sentencing court impose certain conditions of probation or community control for offenders who are placed on sex offender probation for violating ch. 794, F.S. (sexual battery), s. 800.04, F.S. (lewd and lascivious offenses committed upon or in the presence of persons less than 16 years of age), s. 827.071, F.S. (sexual performance by a child), or s. 847.0145, F.S. (selling or buying of minors). Subsection (1) of the section includes conditions for all such offenders whose offense date is on or after October 1, 1995. Subsection (2) of the section includes additional requirements that apply only to such offenders who are placed on sex offender probation and whose offense date was on or after October 1, 1997. Subsection (2) includes a provision for requiring electronic monitoring, but it is not a true statutory mandate because: (a) it only applies when the court places the offender on sex-offender probation, which is not done in all eligible cases; and (b) it may only be ordered "when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections." s. 948.30(2)(e), F.S.

The bill provides that effective for a probationer or community controllee whose crime was committed on or after July 1, 2005, and who was placed on supervision for a violation of s. 794, s. 800.04, s. 827.071, or s. 847.0145, or who is designated a sexual predator pursuant to s. 775.21, in addition to any other provision of this section, the court shall order electronic monitoring.

The bill amends s. 948.11, F.S., to provide that for any probationer or community controllee placed on electronic monitoring pursuant to s. 948.30(3), the department must use a system of active electronic monitoring that identifies the location of a monitored offender and that can produce upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or the offender's departure from a specified geographic location.

The bill also amends s. 948.06, F.S., relating to violations of probation or community control to provide that in any case when a violation of supervision is admitted or determined by the court to be proven, and the court returns the violator to probation or community control, the court must order electronic monitoring. This provision applies to any probationer or community controllee under supervision for a violation of s. 787.01 (kidnapping), 787.02 (false imprisonment), 787.025 (luring or enticing a child), 794.011 (sexual battery), 800.04 (lewd or lascivious), 827.071 (sexual performance by a child), or 847.0145 (selling or buying minors), F.S., or who is designated a sexual predator, regardless of when the crime was committed.

Lifetime electronic monitoring: The bill amends s. 775.082, F.S., to provide that any defendant convicted of any specified offense, in addition to any other penalty provided by law, must be subject to electronic monitoring supervised by the Department of Corrections for the remainder of his or her natural life. This will apply to eligible defendants whose crimes occur on or after July 1, 2005. The specified offenses included are kidnapping a child under the age of 13¹⁷, false imprisonment of a child under the age of 13,¹⁸ luring or enticing a child,¹⁹ sexual battery,²⁰ and lewd or lascivious battery²¹. Any defendant convicted of lewd or lascivious molestation,²² kidnapping,²³ sexual battery²⁴ or lewd or

¹⁷ s. 787.01(3), F.S.

¹⁸ s. 787.02(3), F.S.

¹⁹ s. 787.025, F.S.

²⁰ s. 794.011(2),(3),(4) or (8), F.S.

²¹ s. 800.04(4), F.S.

²² s. 800.04(5), F.S.

²³ s. 787.01(3), F.S.

²⁴ s. 794.011(5), F.S.

lascivious battery on an elderly person²⁵ must, in addition to any other penalty provided, be subject to electronic monitoring supervised by the Department of Corrections for the remainder of the defendant's natural life if the court determines that the defendant has previously been convicted of an enumerated offense.²⁶

The electronic monitoring must commence upon expiration of the defendant's sentence of imprisonment or after the period, if any, of probation, community control or conditional release supervision, whichever occurs later. The Department of Corrections must use a system of active electronic monitoring that identifies the location of a monitored offender and that can produce upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or the offender's departure from a specified geographic location.

The bill also provides that any person subject to electronic monitoring pursuant to this provision who for the purpose of facilitating the commission of a crime, removes, defaces, alters, destroys or fails to maintain the electronic monitoring device in working order commits a first degree felony. Any person subject to lifetime electronic monitoring must follow instructions provided by DOC or the electronic monitoring device manufacturer to maintain the device in working order. Incidental damage or defacement must be reported to DOC within 2 hours. Failure to comply with this reporting requirement is a third degree felony.

The bill requires a sexual predator sentenced to electronic monitoring to provide that information to the FDLE. The Department of Corrections or the offender will be required to notify the Department of Law Enforcement when a sexual offender is sentenced to electronic monitoring.

Identifying, assessing and monitoring high-risk offenders: The bill creates s. 948.061, F.S. which provides that by December 1, 2005, the Department of Corrections must develop a graduated risk assessment and alert system that continuously identifies, assesses and closely monitors a high-risk offender who is placed on probation or in community control and who: (1) has previously been placed on community supervision and have a history of committing multiple community supervision violations, or have previously been incarcerated; and (2) has experienced more than one of the following risk factors that could make the offender more likely to pose a danger to other persons:

- Attempted suicide or severe depression
- Marital instability or a history of domestic violence
- History of substance abuse
- Unemployment or substantial financial difficulties
- History of violence or sex acts against children, particularly if it involved strangers
- Any other risk factor identified by the department

This section also requires a correctional probation officer to provide the court with certain criminal history and background information on high-risk offenders in each report submitted to the court and at each hearing before the court. The required information includes a cumulative chronology of the offender's criminal history and prior terms of community supervision, including all violations of community supervision. The department is given the authority to adopt rules that are necessary to implement this provision.

In monitoring the location of high risk offenders, the department is required to, no later than October 1, 2006, have fingerprint-reading equipment and capability.

Aggravating factors in capital case: When a defendant is convicted of a capital felony, a separate sentencing proceeding is conducted before the trial jury to determine whether the defendant should be

²⁵ s. 825.1025(2), F.S.

²⁶ Included in this list of enumerated offenses is s. 800.04 (lewd or lascivious offenses), 794.011 (sexual battery), 787.01 (kidnapping), 787.02 (false imprisonment), 787.025 (luring or enticing a child), 825.1025 (lewd or lascivious battery on an elderly person) or any burglary of a dwelling (s. 810.02).

sentenced to death or to life imprisonment. After hearing evidence, the jury renders an advisory sentence to the judge based on the following factors:

- a) Whether sufficient aggravating circumstances exist
- b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and
- c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

The judge is not required to sentence a defendant as recommended by the jury. If the judge sentences a person to death, the judge must make written findings that there are sufficient aggravating circumstances and insufficient mitigating circumstances to outweigh the aggravating circumstances.

Section 921.141, F.S., provides a list of aggravating factors to be considered by the jury and the judge as follows:

- The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.
- The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.
- The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- The capital felony was committed for pecuniary gain.
- The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- The capital felony was especially heinous, atrocious, or cruel.
- The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
- The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.
- The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.
- The victim of the capital felony was a person less than 12 years of age.
- The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

- The capital felony was committed by a criminal street gang member, as defined in s. 874.03, F.S.

This bill adds to the list of aggravating circumstances that the capital felony was committed by a person designated a sexual predator pursuant to s. 775.21, F.S., or a person previously designated a sexual predator who had the sexual predator designation removed.

Criminal Justice Estimating Conference: Section 216.136, F.S., creates the Criminal Justice Estimating Conference which is required to develop forecasts of prison admissions and population and of supervised felony offender admissions and population in order to assist the state in planning and budgeting. HB 1877 will require the conference to also develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation or conditional release who are subject to electronic monitoring.

C. SECTION DIRECTORY:

Section 1. Provides that act shall be known as the Jessica Lunsford Act.

Section 2. Amends s. 216.136, F.S., expanding responsibilities of the Criminal Justice Estimating Conference.

Section 3. Amends s. 775.082, F.S., to provide for lifetime electronic monitoring for certain offenders.

Section 4. Creates s. 775.0821, F.S., to prohibit tampering with or removing lifetime electronic monitoring device.

Section 5. Amends s. 775.21, F.S., relating to criteria for sexual predator designation.

Section 6. Creates s. 775.235, F.S., to prohibit harboring sexual predator or sexual offender.

Section 7. Amends s. 921.0022, F.S. relating to offense severity ranking chart.

Section 8. Amends s. 921.141, F.S., to add to list of aggravating circumstances in capital case.

Section 9. Amends s. 943.043, F.S. relating to FDLE information sharing with local law enforcement agencies.

Section 10. Amends s. 944.606, F.S. relating to sexual offender reporting.

Section 11. Amends s. 944.607, F.S. relating to sexual offender reporting.

Section 12. Amends s. 947.1405, F.S., to provide additional requirements of the Parole Commission for sexual offenders on conditional release.

Section 13. Creates s. 947.1406, F.S., to require active GPS monitoring for certain individuals on conditional release.

Section 14. Amends s. 948.06, F.S., to require electronic monitoring for certain probation violators.

Section 15. Creates s. 948.061, F.S. relating to risk assessment.

Section 16. Amends s. 948.11, F.S., to require active GPS monitoring for certain probationers.

Section 17 Amends s. 948.30, F.S., relating to terms of probation and community control for certain sex offenses.

Section 18. Provides for severability.

Section 19. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Department of Corrections, 328 offenders will be impacted in the first year, 911 offenders will be impacted in the second year and 1,783 offenders will be impacted in the third year. The department estimates that the bill will have the following fiscal impact on the department:

Total Fiscal Impact-Department of Corrections

	FY 2005-06	FY 2006-07	FY 2007-08
Recurring	\$2,284,321	\$6,521,212	\$12,830,574
Non-recurring	241,156	410,286	569,887
Total	\$2,525,477	\$6,931,498	\$13,400,461

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Current law provides that offenders being electronically monitored by the department as a result of placement on community control are required to pay an amount up to the full cost of the monitoring service in addition to the cost of supervision.

D. FISCAL COMMENTS:

The House version of the General Appropriations Act includes \$3 million for additional electronic monitoring services.

There will be a long-term impact from provisions requiring lifetime electronic monitoring for some offenders. The impact is indeterminate and will likely not be realized until at least the fourth year. The Criminal Justice Estimating Conference will regularly project the number of offenders affected by this legislation for planning and budgeting purposes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

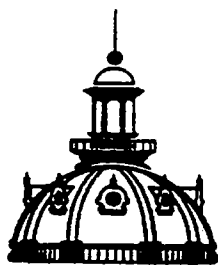
The Criminal Justice Committee adopted two amendments to the PCB as originally drafted. The amendments added the provision regarding harboring a sexual predator or sexual offender who is not in compliance with reporting requirements and clarified the type of electronic monitoring that will be used.

On April 12, 2005, the Justice Appropriations Committee adopted a strike-all amendment and seven amendments to that amendment which:

- To conform to current law, clarified that the Parole Commission and not the court would be required to order electronic monitoring for an offender on conditional release. Also clarified that the provisions requiring electronic monitoring would apply to all offenders on supervision for an enumerated sexual offense – not only offenders who are placed on sex offender probation or community control.
- Amended s. 948.06, F.S., to provide that in any case when a violation of supervision is admitted or determined by the court to be proven, and the court returns the violator to probation or community control, the court must order electronic monitoring. This provision applies to any probationer or community controllee under supervision for a violation of s. 787.01, 787.02, 787.025, 794.011, 800.04, 827.071, 847.0145, F.S., or who is designated a sexual predator, regardless of when the crime was committed.
- Amended s. 775.082, F.S., to provide for lifetime electronic monitoring of offenders meeting certain criteria as described in the above analysis.
- Amended s. 212.136, F.S., to require the Criminal Justice Estimating Conference to develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release.
- Created a severability clause.
- Provided that if a person on conditional release for an enumerated sexual offense who has been placed on electronic monitoring is found to be in violation of any material condition of supervision, the commission must order the releasee returned to prison until the expiration of the sentence of imprisonment.
- Modified the description of the electronic monitoring to be used.

On April 14, 2005, the Justice Council adopted a strike-all amendment which:

- Increased the ranking of several offenses relating to failure to comply with sexual predator or sexual offender reporting requirements in the Offense Severity Ranking Chart of the Criminal Punishment Code.
- Modified the description of the electronic monitoring to be used.
- Clarified that the Criminal Justice Estimating Conference would develop official information relating to the number of sexual offenders and sexual predators on supervision who are subject to electronic monitoring.
- Clarified that the offense of tampering with a lifetime electronic monitoring device applies when a person commits the offense for the purpose of facilitating the commission of a crime.
- Requires that the fact that a sexual predator or sexual offender is on lifetime electronic monitoring be provided to the FDLE.
- Required the Department of Corrections to develop a graduated risk assessment and alert system as described in the analysis above.



Iowa Legislative Services Agency

October 19, 2005

Inside this Briefing

- Purpose and Overview
- Length of Registration
- Registration Process
- Verification of Address and Photograph
- Public Access to the Sex Offender Registry Information
- Assessment of Risk
- Criminal Violations

Legal Background Briefings provide background information regarding a particular area of law and are updated periodically.

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Legal Background Briefing on...

Iowa's Sex Offender Registry Law

Purpose and Overview

Purpose. The purpose of this Background Briefing is to provide an overview of the Sex Offender Registry Law in Iowa, including who is required to register, the registration process, how registry information is obtained by the general public, and the criminal violations associated with failure to comply with the Sex Offender Registry. Citations to the law within this Background Briefing are to the 2005 Iowa Code and 2005 Iowa Code Supplement.

Overview. The Sex Offender Registry was created in 1995.¹ The registry law was substantially amended during the 2005 Legislative Session.² Any person convicted of a criminal offense against a minor with a sexual element, an aggravated offense with a sexual element, a sexually violent offense, or any other relevant offense in Iowa, or in any other state, or in any federal, military, tribal, or foreign court, must register as a sex offender.³ Beginning in July 2005, sex offenders for the first time are being removed from the registry because their 10-year registry period has ended. During July of 2005, 641 sex offenders were removed from the registry because the offenders had successfully completed their 10-year registry period.⁴ As of August 1, 2005, there were 6,004 people on the Sex Offender Registry.⁵

Length of Registration

10-Year Registration.

A person required to register as a sex offender is required to register for a period of 10 years.⁶ If an offender is placed on probation, parole, or work release and that status is subsequently revoked, the 10-year registration period begins anew upon release from custody.⁷ If an offender is incarcerated for another offense while on the Sex Offender

Registry, the 10-year registry period is tolled while the offender is incarcerated.⁸

Special Sentence Registration.

A person required to register as a sex offender who is serving a special sentence for a sexual offense conviction is required to register as a sex offender for a period equal to the length of the special sentence.⁹ For an offender serving a misdemeanor or class "D" felony special sentence for a sexual offense conviction, the offender must register for a period of 10 years unless discharged sooner.¹⁰ For an offender serving a class "C" felony or greater felony special sentence for a sexual offense conviction, the offender must register for the rest of the person's life or until the offender is discharged from the special sentence, as applicable.¹¹

Lifetime Registration.

If an offender commits an aggravated offense or commits a second or subsequent offense that requires registration, the offender must register as a sex offender for the rest of the person's life.¹²

Registration Process

A person required to register as a sex offender must register with the sheriff of the county where the person resides within five days of establishing residence, within five days of any conviction if the person is not incarcerated, or within five days of any release.¹³ A sheriff must accept the registration of a nonresident who works full-time or part-time or who is a full-time or part-time student in the county.¹⁴ A sex offender must also register with the sheriff within five days of changing residences within the county or changing the offender's legal name.¹⁵ If the offender moves outside this state, within five days, the offender must notify the sheriff of the county where the offender is registered of the offender's new address outside this state.¹⁶

Any time the address of a sex offender is updated, the county sheriff must notify the

Department of Public Safety of the new address.¹⁷

Verification of Address and Photograph

A person required to register as a sex offender must annually verify the person's address with the Department of Public Safety.¹⁸ If the offender is classified as a sexually violent predator, the person must verify the person's address every three months with the department.¹⁹ A photograph of the offender must also be updated at least annually for publication on the Sex Offender Registry's web page.²⁰

Public Access to the Sex Offender Registry Information

The Department of Public Safety must provide relevant sex offender information to any criminal or juvenile justice agency, any state agency, any Sex Offender Registry in another state, and the federal government, and to the general public through the Sex Offender Registry's web page.²¹ Every person required to register as a sex offender is subject to having the person's photograph and relevant information posted on the Sex Offender Registry's web page.²² For a person under 20 years of age who commits sex abuse in the third degree with a minor, more commonly referred to as statutory rape, relevant information regarding the person is not on the Sex Offender Registry's web page.²³ A member of the general public may also request relevant Sex Offender Registry information from the county sheriff or police department. The request for relevant information must include the name of the offender and at least one of the following identifiers: the date of birth of the person, the social security number of the person, or the address of the person.²⁴

Relevant information provided to the public may include the following: the offender's name, address, photograph, locations frequented by the offender, relevant criminal history, and any risk assessment. Relevant information does not include the identity of any victim.²⁵

Assessment of Risk

The Department of Corrections, the Department of Human Services, and the Department of Public Safety must, in consultation with one another, develop methods and procedures for the assessment of the risk to reoffend by persons required to register as a sex offender.²⁶ The Department of Corrections must perform the assessment of risk for persons who are incarcerated at correctional institutions, and a Judicial District Department of Correctional Services must perform the assessment for persons who are being supervised by a judicial district.²⁷ The Department of Human Services is responsible for performing the assessment of risk for persons confined in institutions under the control of the director of the department.²⁸ The Division of Criminal Investigation of the Department of Public Safety must perform the assessment of risk for persons who have moved to Iowa and who are not under the supervision of a governmental agency, for federal parolees or probationers, and for certain other offenders not otherwise under supervision.²⁹ A juvenile court officer must perform the assessment of risk for a juvenile adjudicated delinquent for an offense that requires registration.³⁰

The Department of Public Safety is responsible for disclosing the assessment of risk, which is disclosed along with any other relevant sex offender information. The disclosure includes the posting of the assessment on the Sex Offender Registry's web page.³¹

Criminal Violations

Residency Restrictions.

A person who is required to register as a sex offender and whose underlying criminal offense was committed against a minor is prohibited from residing within 2,000 feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility.³² A sex offender who resides within 2,000 feet of a public or nonpublic school or child care facility commits an aggravated misdemeanor.³³ An offender

does not violate the 2,000-foot restriction if the offender is required to serve a sentence at a correctional institution or facility, is subject to civil commitment as a sexually violent predator, had an established residence prior to July 1, 2002, resides within 2,000 feet of a newly established school or child care facility, or is a minor or ward under a guardianship.³⁴

Other Criminal Violations.

If an offender fails to register or does not register within five days of moving or changing the offender's name, or fails to verify the address or update the offender's photograph, the offender commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense.³⁵ If an offender fails to register in a county where the offender is a student or employee of an institution of higher education but not a resident, the offender commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense.³⁶ An offender who commits a criminal violation under Code chapter 692A (Sex Offender Registry law), except a violation of the residency restriction, and subsequently commits a criminal offense against a minor that requires registration, commits a class "C" felony in addition to any other criminal violation.³⁷

¹ Iowa Code ch. 692A; See also 1995 Iowa Acts ch. 146.

² 2005 Iowa Acts ch. 158 (HF 619).

³ Iowa Code Supplement § 692A.2. For specific criminal offenses which require registration as a sex offender, see Iowa Code §§ 692A.1(1) (aggravated offense); 692A.1(5) (criminal offense against a minor); 692A.1(7) (other relevant offenses); and 692A.1(9) (sexually violent offenses).

⁴ E-mail from Jennifer Acton, Legislative Services Agency (August 15, 2005).

⁵ E-mail from Jennifer Acton, Legislative Services Agency (August 15, 2005).

⁶ The 10-year period commences from the date the person is placed on probation, the date of release from parole or work release, the date of release of a juvenile from foster care or residential treatment, or from the date of any other release from custody. See Iowa Code Supplement § 692A.2(1).

⁷ Iowa Code Supplement § 692A.2(3).

⁸ Iowa Code Supplement § 692A.2(3).

⁹ Iowa Code Supplement § 692A.2(2).

¹⁰ Iowa Code Supplement § 692A.2(2). For a list of misdemeanor and class "D" felony special offenses requiring a 10-year parole term, see Iowa Code Supplement § 903B.2.

¹¹ Iowa Code Supplement § 692A.2(2). For a list of felony special offenses requiring lifetime parole and thus lifetime registration unless otherwise discharged, see Iowa Code Supplement § 903B.1.

¹² Iowa Code Supplement § 692A.2(5). For a list of specific aggravated criminal offenses, see Iowa Code § 692A.1(1).

¹³ Iowa Code § 692A.3(1).

¹⁴ Iowa Code § 692A.3(1).

¹⁵ Iowa Code § 692A.3(2).

¹⁶ Iowa Code § 692A.3(4).

¹⁷ Iowa Code § 692A.3(2-4).

¹⁸ Iowa Code Supplement § 692A.4(1).

¹⁹ Iowa Code Supplement § 692A.4(2). Iowa Code Supplement § 692A.1(11) defines "sexually violent predator" to mean a person who has been convicted of an offense under the laws of this state or any other state which qualify the person as a sexually violent predator under the federal Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14701(a)(3)(B), (C), (D), and (E).

²⁰ Iowa Code Supplement § 692A.4(3).

²¹ Iowa Code Supplement § 692A.13(1).

²² Iowa Code Supplement § 692A.13(6).

²³ Iowa Code Supplement § 692A.13(1)(b).

²⁴ Iowa Code Supplement § 692A.13(4).

²⁵ Iowa Code Supplement § 692A.13(6).

²⁶ Iowa Code Supplement § 692A.13A(1).

²⁷ Iowa Code Supplement § 692A.13A(1)(a).

²⁸ Iowa Code Supplement § 692A.13A(1)(b).

²⁹ Iowa Code Supplement § 692A.13A(1)(c).

³⁰ Iowa Code Supplement § 692A.13A(1)(d).

³¹ Iowa Code Supplement § 692A.13A(2).

³² Iowa Code § 692A.2A(1,2).

³³ Iowa Code § 692A.2A(3).

³⁴ Iowa Code § 692A.2A(4).

³⁵ Iowa Code Supplement § 692A.7(1). See also Iowa Code Supplement §§ 692A.2 and 692A.4 and Iowa Code § 692A.3.

³⁶ Iowa Code Supplement § 692A.7(1). See also Iowa Code § 692A.3A.

³⁷ Iowa Code Supplement § 692A.7(1).

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692A.2A Residency restrictions - child care facilities and schools.

1. For purposes of this section, "*person*" means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

2. A person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility.

3. A person who resides within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school, or a child care facility, commits an aggravated misdemeanor.

4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:

a. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

b. The person is subject to an order of commitment under chapter 229A.

c. The person has established a residence prior to July 1, 2002, or a school or child care facility is newly located on or after July 1, 2002.

d. The person is a minor or a ward under a guardianship.

Section 15-20-26**Adult criminal sex offender - Prohibited residence locations, etc.**

(a) Unless otherwise exempted by law, no adult criminal sex offender shall establish a residence or accept employment within 2,000 feet of the property on which any school or child care facility is located.

(b) Unless otherwise exempted by law, no adult criminal sex offender shall establish a residence or any other living accommodation within 1,000 feet of the property on which any of his or her former victims, or the victims' immediate family members reside.

(c) No adult criminal sex offender shall establish a residence or any other living accommodation where a minor resides. Notwithstanding the foregoing, an adult criminal sex offender may reside with a minor if the adult criminal sex offender is the parent, grandparent, or stepparent of the minor, unless one of the following conditions applies:

(1) The adult criminal sex offender's parental rights have been or are in the process of being terminated as provided by law.

(2) Any minor or adult child, grandchild, or stepchild of the adult criminal sex offender was a victim of a criminal sex offense committed by the adult criminal sex offender.

(3) Any minor sharing a residence with the adult criminal sex offender at the time of the offense was a victim of a criminal sex offense committed by the adult criminal sex offender.

(d) No adult criminal sex offender shall be permitted to willfully or knowingly come within 100 feet of any of his or her former victims, except as elsewhere provided by law, or make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to a former victim.

(e) Changes to property within 2,000 feet of an adult criminal sex offender's registered address which occur after an adult criminal sex offender establishes residency or accepts employment shall not form the basis for finding that a criminal sex offender is in violation of the residence or employment restrictions of this article.

(f) An adult criminal sex offender who knowingly violates the provisions of this section shall be guilty of a Class C felony.

(Act 99-572, p. 1283, §3; Act 2000-728, p. 1566, §1; Act 2001-1127, 4th Sp. Sess., p. 1199, §1.)

Public Act 094-0158

Public Act 094-0158

HB0023 Enrolled

LRB094 01868 RLC 31868 b

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Criminal Code of 1961 is amended by changing
Section 11-9.3 as follows:

(720 ILCS 5/11-9.3)

Sec. 11-9.3. Presence within school zone by child sex
offenders prohibited.

(a) It is unlawful for a child sex offender to knowingly be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of 18 are present in the building, on the grounds or in the conveyance, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school ~~present in the building, on the grounds or in the conveyance~~ or unless the offender has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. A child sex offender who violates this provision is guilty of a Class 4 felony.

Nothing in this Section shall be construed to infringe upon the constitutional right of a child sex offender to be present in a school building that is used as a polling place for the

purpose of voting.

(1) (Blank; or)

(2) (Blank.)

(b) It is unlawful for a child sex offender to knowingly loiter on a public way within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a student attending the school and the parent or guardian is: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion and notifies the principal of the school of his or her presence at the school ~~present in the building or on the grounds~~ or has permission to be present from the superintendent or the school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours in which the sex offender will be present in the school. The sex offender is responsible for notifying the principal's office when he or she arrives on school property and when he or she departs from school property. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official. A child sex offender who violates this provision is guilty of a Class 4 felony.

(1) (Blank; or)

(2) (Blank.)

(b-5) It is unlawful for a child sex offender to knowingly reside within 500 feet of a school building or the real property comprising any school that persons under the age of 18 attend. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a school building or the real property comprising any school that persons under 18 attend if the property is owned by the child sex offender and was purchased before the effective date of this amendatory Act of the 91st General Assembly.

(c) Definitions. In this Section:

(1) "Child sex offender" means any person who:

(i) has been charged under Illinois law, or any substantially similar federal law or law of another state, with a sex offense set forth in paragraph (2) of this subsection (c) or the attempt to commit an included sex offense, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to

subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal law or the law of another state substantially similar to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(ii) is certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal law or the law of another state, when any conduct giving rise to such certification is committed or attempted against a person less than 18 years of age; or

(iii) is subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Section.

(2) Except as otherwise provided in paragraph (2.5), "sex offense" means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-9 (public indecency when committed in a school, on the real property comprising a school, or on a conveyance, owned, leased, or contracted by a school to transport students to or from school or a school related activity), 11-9.1 (sexual exploitation of a child), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 11-21 (harmful material), 12-14.1 (predatory criminal sexual assault of a child), 12-33 (ritualized abuse of a child), 11-20 (obscenity) (when that offense was committed in any school, on real property comprising any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault),

12-15 (criminal sexual abuse), 12-16 (aggravated criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in clause (2)(i) of subsection (c) of this Section.

(2.5) For the purposes of subsection (b-5) only, a sex offense means:

(i) A violation of any of the following Sections of the Criminal Code of 1961:

- 10-5(b)(10) (child luring), 10-7 (aiding and abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this paragraph (2.5) of this subsection.

(3) A conviction for an offense of federal law or the law of another state that is substantially equivalent to any offense listed in paragraph (2) of subsection (c) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for the purposes of this Section.

(4) "School" means a public or private pre-school,

elementary, or secondary school.

(5) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property, for the purpose of committing or attempting to commit a sex offense.

(6) "School official" means the principal, a teacher, or any other certified employee of the school, the superintendent of schools or a member of the school board.

(d) Sentence. A person who violates this Section is guilty of a Class 4 felony.


(Source: P.A. 90-234, eff. 1-1-98; 90-655, eff. 7-30-98; 91-356, eff. 1-1-00; 91-911, eff. 7-7-00.)

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 07/11/2005

Floor Actions

Date	Action
7/11/2005	Public Act.....094-0158

Select Year: 2005 

The 2005 Florida Statutes

Title XLVII
CRIMINAL PROCEDURE AND
CORRECTIONS

Chapter 948
PROBATION AND COMMUNITY
CONTROL

[View Entire
Chapter](#)

948.30 Additional terms and conditions of probation or community control for certain sex offenses.--Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and the alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.

(c) Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. If a qualified practitioner is not available within a 50-mile radius of the probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

(e) If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except as provided in this paragraph. The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment. Further, the sex offender must be currently enrolled in or have successfully completed a sex offender therapy program. The court may not grant supervised contact with a child if the contact is not recommended by a qualified practitioner and may

deny supervised contact with a child at any time. When considering whether to approve supervised contact with a child, the court must review and consider the following:

1. A risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address each of the following components:

- a. The sex offender's current legal status;
- b. The sex offender's history of adult charges with apparent sexual motivation;
- c. The sex offender's history of adult charges without apparent sexual motivation;
- d. The sex offender's history of juvenile charges, whenever available;
- e. The sex offender's offender treatment history, including consultations with the sex offender's treating, or most recent treating, therapist;
- f. The sex offender's current mental status;
- g. The sex offender's mental health and substance abuse treatment history as provided by the Department of Corrections;
- h. The sex offender's personal, social, educational, and work history;
- i. The results of current psychological testing of the sex offender if determined necessary by the qualified practitioner;
- j. A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement;
- k. The child's preference and relative comfort level with the proposed contact, when age appropriate;
- l. The parent's or legal guardian's preference regarding the proposed contact; and
- m. The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child.

The written report of the assessment must be given to the court;

2. A recommendation made as a part of the risk assessment report as to whether supervised contact with the child should be approved;

3. A written consent signed by the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, agreeing to the sex offender having supervised contact with the child after receiving full disclosure of the sex offender's present legal status, past criminal history, and the results of the risk

assessment. The court may not approve contact with the child if the parent or legal guardian refuses to give written consent for supervised contact;

4. A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child. The safety plan must be reviewed and approved by the court; and

5. Evidence that the child's parent or legal guardian understands the need for and agrees to the safety plan and has agreed to provide, or to designate another adult to provide, constant supervision any time the child is in contact with the offender.

The court may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not demonstrated to the court that he or she has met the requirements of a qualified practitioner as defined in this section.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including, but not limited to, schools, day care centers, parks, playgrounds, pet stores, libraries, zoos, theme parks, and malls.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

(h) Effective for probationers and community controllees whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services.

(i) A requirement that the probationer or community controllee must submit a specimen of blood or other approved biological specimen to the Department of Law Enforcement to be registered with the DNA data bank.

(j) A requirement that the probationer or community controllee make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

(k) Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on community control or sex offender probation for a violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any other provision of this section, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

(3) Effective for a probationer or community controllee whose crime was committed on or after September 1, 2005, and who:

(a) Is placed on probation or community control for a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older;

(b) Is designated a sexual predator pursuant to s. 775.21; or

(c) Has previously been convicted of a violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and the unlawful sexual activity involved a victim 15 years of age or younger and the offender is 18 years of age or older,

the court must order, in addition to any other provision of this section, mandatory electronic monitoring as a condition of the probation or community control supervision.

History.--s. 59, ch. 95-283; s. 6, ch. 96-409; s. 3, ch. 97-308; s. 14, ch. 98-81; s. 13, ch. 99-201; s. 3, ch. 2000-246; s. 1, ch. 2003-18; s. 1, ch. 2003-63; s. 18, ch. 2004-373; s. 151, ch. 2005-2; s. 20, ch. 2005-28; s. 4, ch. 2005-67.

Note.--Former s. 948.03(5).

RCW 72.09.340

Supervision of sex offenders -- Public safety -- Policy for release plan evaluation and approval -- Implementation, publicizing, notice -- Rejection of residence locations of felony sex offenders of minor victims -- Supervised visitation considerations. (*Effective July 1, 2006.*)

(1) In making all discretionary decisions regarding release plans for and supervision of sex offenders, the department shall set priorities and make decisions based on an assessment of public safety risks.

(2) The department shall, no later than September 1, 1996, implement a policy governing the department's evaluation and approval of release plans for sex offenders. The policy shall include, at a minimum, a formal process by which victims, witnesses, and other interested people may provide information and comments to the department on potential safety risks to specific individuals or classes of individuals posed by a specific sex offender. The department shall make all reasonable efforts to publicize the availability of this process through currently existing mechanisms and shall seek the assistance of courts, prosecutors, law enforcement, and victims' advocacy groups in doing so. Notice of an offender's proposed residence shall be provided to all people registered to receive notice of an offender's release under RCW 9.94A.612(2), except that in no case may this notification requirement be construed to require an extension of an offender's release date.

(3) For any offender convicted of a felony sex offense against a minor victim after June 6, 1996, the department shall not approve a residence location if the proposed residence: (a) Includes a minor victim or child of similar age or circumstance as a previous victim who the department determines may be put at substantial risk of harm by the offender's residence in the household; or (b) is within close proximity of the current residence of a minor victim, unless the whereabouts of the minor victim cannot be determined or unless such a restriction would impede family reunification efforts ordered by the court or directed by the department of social and health services. The department is further authorized to reject a residence location if the proposed residence is within close proximity to schools, child care centers, playgrounds, or other grounds or facilities where children of similar age or circumstance as a previous victim are present who the department determines may be put at substantial risk of harm by the sex offender's residence at that location.

(4) When the department requires supervised visitation as a term or condition of a sex offender's community placement under RCW 9.94A.700(6), the department shall, prior to approving a supervisor, consider the following:

(a) The relationships between the proposed supervisor, the offender, and the

minor; (b) the proposed supervisor's acknowledgment and understanding of the offender's prior criminal conduct, general knowledge of the dynamics of child sexual abuse, and willingness and ability to protect the minor from the potential risks posed by contact with the offender; and (c) recommendations made by the department of social and health services about the best interests of the child.

[1996 c 215 § 3; 1990 c 3 § 708.]

NOTES:

Index, part headings not law -- Severability -- Effective dates --
Application -- 1990 c 3: See RCW 18.155.900 through 18.155.902.